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ABSTRACT

Thirteen cases involving state school-finance litigation were decided in 1994. Of these 13 decisions, 6 state systems were found to be unconstitutional. This document describes state litigation involving school finance for 1994-95. A review of cases finds that states have manifested a variety of responses to court decisions. Most suits turn on the equity and adequacy of state funding, and the decisions handed down in 1994 followed that pattern for the most part. However, no particular pattern could be identified to determine how courts decided the constitutionality of educational finance systems. Finally, rulings were made in 1995 on long-standing litigation in New York, Tennessee, and Texas. One table highlights the status of school-finance litigation for 1994-95. Contains a 13-item list of state legislature reports. (LMI)

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State School Finance Litigation: A Summary and Analysis

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1994 and 1995 were active for school finance litigation. Thirteen cases were decided in 1994 (1). Approximately half, or six, were heard at state supreme courts; the remaining decisions are probably not final or are in the process of being appealed. (See table 1 for a summary of all decisions.) The supreme courts in Kansas, North Dakota and Virginia upheld the constitutionality of the respective states' school funding systems while supreme courts in Arizona and New Jersey ruled the school funding systems unconstitutional. New Hampshire's supreme court decision focused exclusively on the state's duty to fund education, overturning a lower court decision. In a novel twist, Arizona justices based their decision largely on the inequities in facilities among school districts (2,3). In the 13 decisions, seven state systems were found constitutional and six unconstitutional, an approximate 50/50 split. This ratio is consistent with the track record of the previous four-year period, 1989-1993 (4).

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States have manifested a variety of responses to court decisions. At the end of 1994, appeals were in process in at least three states. Plaintiffs in Maine, who had lost at the superior court level, have appealed to the appellate level, while plaintiffs in Rhode Island have appealed to the supreme court. In Ohio the state's attorney general at the request of the governor has appealed the common pleas court decision overturning the system. In Illinois and South Dakota, where plaintiffs had lost at lower court levels, appeals are being considered. Court oversight in Arkansas and New Jersey requires legislatures to fashion a funding system compatible with the court decision within a given period of time. Other states have undertaken studies of either parts of the funding system or the funding system; these include Arizona, North Dakota and Ohio. Arizona is in the process of requesting proposals for a statewide survey of facilities in school districts that fall below the state's median assessed value of property, while North Dakota and Ohio have convened special study groups. With the exception of New Hampshire, states where the funding system was upheld at the supreme court level—Kansas and Virginia—are taking no action. In New Hampshire, because of the narrow scope of the decision, plaintiffs intend to initiate a new suit dealing with equity and adequacy.

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Most school finance suits turn on the equity and adequacy of state funding, and the decisions handed down in 1994 for the most part followed that pattern. However, what is deemed constitutional school finance in one state may not be so in another; it is difficult to see any particular pattern. For example, some courts are more tolerant of disparities in per-pupil expenditures than others. In states such as Illinois, North Dakota, South Dakota and Virginia, the courts found nothing in their states' constitutions forbidding variations in spending across districts. In South Dakota, the court noted that the state constitution tolerates disparities in both spending and tax rates. Yet in New Jersey the supreme court found the funding system unconstitutional for the third time since 1973, in large part because of disparities in expenditures across school districts.

Although there have been fewer decisions handed down in 1995, courts in Texas, New York and Tennessee have made rulings on long-standing litigation. In January, the Texas Supreme Court ruled that for the first time since 1989, the state was operating a constitutional funding system of public education. It took the Texas Legislature six years and four successive attempts to craft legislation that finally closes the *Edgewood vs. Kirby* suit, filed in 1984. Last month, the New York State Court of Appeals denied the state's motion to dismiss a complaint

Rulings were made in 1995 on long-standing litigation in New York, Tennessee and Texas.

brought by several parents, students, teachers and community school boards. Although plaintiffs have filed suits against the state previously, challenging the constitutionality of the funding formula, they have never been successful. Observers expect this recent suit to be of interest because it is the first time a school finance case has been brought under Title VI. In

February 1995, the Tennessee state supreme court upheld the constitutionality of the funding formula adopted in 1992. The court did make modifications to the chancery court decision with regard to teacher salary equity; however, the court upheld the chancery court's denial of the plaintiff's claim that funding equalization should take effect immediately as opposed to the five-year phase-in plan the legislature has been implementing. A decision from the Rhode Island Supreme Court is expected later this summer. In this case brought by the towns of Pawtucket, Woonsocket and West Warwick, the plaintiffs claim that the state's education finance system is unconstitutional because it discriminates against poor communities, which generally have lower property values than other towns in the state.

Table I: School Finance Litigation 1994-1995

State/ Date	Case Summary/ Case Reference	Status
Arizona July 1994	According to the state supreme court, "Arizona's use of property taxes to pay for public education is unconstitutional because it provides "enormous disparities" in the ability of school districts to build new schools, maintain existing buildings and purchase equipment," and the funding system also was found unconstitutional. <i>Roosevelt Elementary School District Number 66 vs. C. Diane Bishop</i> fi 877p.2D806.	In October the Legislature issued an RFP for a comprehensive study of the state's school facility needs and their condition. Districts below median assessed valuation would be surveyed.
Arkansas Nov. 1994	Pulaski County Chancery-court judge Annabelle Clinton Imber declared the state's school-funding formula unconstitutional because it does not provide a "general, suitable and efficient system" as mandated by the state constitution. <i>Lake View School District vs. Jim Guy Tucker, Governor.</i>	Judge Imber has given the legislature two years to correct the system. Several lawmakers were discussing whether to request that Judge Imber be more specific about how to remedy the system. A task force on school finance has been meeting since 1993, and will continue to do so.
Idaho Nov. 1994	The Fourth District Court dismissed the funding suit against the Idaho Legislature, finding at least four significant changes had occurred which impacted the status of the case: The 1994 legislature gave public schools the largest appropriation in the history of the state; the legislature changed the funding formula; the legislature defined "thoroughness"; and the state board of education regulations will be replaced by new standards by April 1, 1996. <i>ISEEO vs. Idaho Legislature.</i>	Motion to dismiss on the basis of mootness was granted.

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Illinois Sept. 1994	For the third time since 1973 the appellate court has upheld the constitutionality of the school finance system. The court ruled that the constitution doesn't mandate fiscal neutrality and that children do not have a fundamental right to particular education opportunities. Further, the court found fault in the plaintiffs' basing their case on the different benefits rich and poor districts could offer. <i>Committee for Educational Rights vs. Jim Edgar, Governor</i> 267 Ill. App. 3d 18, 95 Ed. Law Rep. 662.	Plaintiffs have asked the court to reconsider its decision and ultimately may appeal the case to the state supreme court.
Kansas Dec. 1994	The state supreme court ruled that the 1992 School Finance and Quality Performance Act, together with its 1993 amendments, is constitutional . As part of its ruling the court confirmed the district court conclusion that the "rational basis" test is the proper measure against which to evaluate challenges to the school finance law on state and federal equal protection grounds. <i>U.S.D. no. 229 vs. State of Kansas</i> .	Besides the challenge to the act's validity the provision for low enrollment weighting was upheld. (Districts between 400 and 1,899 in student enrollment.)
Maine June 1994	Although about 80 districts had argued that statewide reductions in education aid since 1990 had resulted in excessive cuts in poorer school systems, which receive the most state assistance, the superior court upheld the constitutionality of the funding system. <i>MSAD no. 1 vs. Martin</i> . Docket # CV-92-371.	The ruling has been appealed to the appellate court.

Table I: School Finance Litigation 1994-1995

State/ Date	Case Summary/ Case Reference	Status
New Hampshire Dec. 1993	Unlike most finance cases the issue facing the supreme court did not involve a determination of equity but instead whether the state has a duty to fund public education. The ruling reversed a 1992 opinion by a superior-court judge who ruled that the state has no duty to fund education, "since the state constitution only stipulates the amorphous duty to cherish . . . public schools and encourage private and public institutions." <i>Claremont School District vs. Governor</i> . 1993. No. 92-711.	The next phase of the lawsuit is expected to begin in 1996. Suit was originally filed in 1991 by five districts: Allenstown, Claremont, Franklin, Lisbon and Pittsfield, contending that the state fails to provide adequate and equitable funding for its public schools.
New Jersey July 1994	Last summer's decision marked the third time since 1973 that the state supreme court had deemed the system for funding schools unconstitutional . The court ruled that the Legislature had not gone far enough to close spending disparities between wealthy districts and 30 so called "special needs" districts, as required by the court's 1990 decision. <i>Abbott vs. Burke II</i> . No. A140-141.	The court has retained jurisdiction, and set a deadline of the 1997-98 school year for the state to achieve "substantial equivalence, approximating 100 percent" in per pupil spending by wealthy and poor districts. Estimates indicate that an additional \$450 million to \$625 million would be needed to close the funding gap without raising taxes.
North Dakota Jan. 1994	Although three of the five supreme court justices signed the majority decision to sustain the district court's determination that the statutory method for distributing funding for education is unconstitutional, the district court's decision was not upheld, and the system was ruled constitutional because Section 4 of Article VI of the Constitution of North Dakota requires that a legislative enactment cannot be declared unconstitutional unless at least four members of the court so decide. <i>Bismark Public School district et al. vs. State et al.</i>	

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State/ Date	Case Summary/ Case Reference	Status
Ohio July 1994	Perry County Common Pleas judge Linton D. Lewis Jr. ruled that not only was the state's school finance system unconstitutional but that a 1979 decision by the supreme court was no longer valid. <i>DeRolph vs. State of Ohio</i> . No. 22043.	Governor George Voinovich immediately asked the attorney general to appeal the decision. The State Education Board was listed as appellant although members voted not to appeal. State Superintendent of Education Ted Sanders has convened a working group of finance experts and state education leaders to make recommendations on improving the school funding system.
Rhode Island 1994	Circuit Court found funding system unconstitutional . <i>City of Pawtucket vs. Sundlun</i> . CA No. 98-8644 and 92-0588.	The state has filed an appeal with the state supreme court. A decision is expected in 1995.
South Dakota Dec. 1994	Circuit Judge Steven L. Zinter concluded that the state constitution does not require all districts to tax at the same rate or to spend an equal amount per student, as the plaintiffs had argued, and upheld the constitutionality of the current system. <i>Bezdichek vs. South Dakota, et al.</i> Civs. 91-209.	Former Governor Walter Miller unveiled a proposal designed to make the state's school aid formula more equitable prior to judge Zinter's ruling. However, Governor William Janklow has begun fashioning his own plan. In November voters narrowly defeated a ballot initiative that would have limited property taxes to 1 percent of assessed value. Plaintiffs are considering an appeal.

Table 1: School Finance Litigation 1994-1995

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Tennessee February 1995	The state supreme court modified the decision of the chancery court with regard to teacher salary equity and remanded it to the lower court. The supreme court upheld the chancery court's denial of the plaintiff's demand that equalization of funding must be achieved immediately rather than phased-in over a period of five years. <i>Tennessee Small School Systems et al. vs. Ned Ray McWherter et al.</i> Appeal No. 01S01-9404-CH-00040.	Following the decision, the General Assembly amended the Education Improvement Act to provide for teacher salary equity. The legislature appropriated \$5 million for fiscal year 1996 and \$3 million for fiscal year 1997. Only those teacher salaries that fall below the state average will be affected.
Texas January 1995	On direct appeal from the 250th judicial district, both property-poor and property-rich school districts sought to have Senate Bill 7 found unconstitutional due to numerous allegations. The most prominent features of Senate Bill 7 are an imposed cap on school district's taxable property at a level of \$280,000 per student and a three year phase-in. <i>Edgewood Independent School District, ET AL., vs. Lionel R. Meno, Et AL and Bexar County Education District, Et AL., Appellees.</i> 893 SW2nd 450	Supreme court found that, "On final analysis, we concluded that all parties claiming that Senate Bill 7 is unconstitutional have failed to meet that challenge. We accordingly affirm the constitutionality of the public school finance system enacted in Senate Bill 7...we emphasize, however, that the challenge to the school finance law based on inadequate provision for facilities fails only because of an evidentiary void."
Virginia April 1994	In what has become another disappointment for the lead plaintiff school district, Halifax County, the supreme court upheld the state's school funding formula, arguing that eliminating fiscal disparities between school systems is "simply not required by the constitution." (unanimous decision) <i>Reid Scott et al vs. Commonwealth of Virginia et al.</i> 247 VA 379.	Virginia currently ranks 45th in the nation in state aid to K-12 education. Differences in spending are manifested in smaller class sizes, more computers and more course selection for wealthier schools. During the '94 session the legislature passed a \$102 million initiative aimed at lowering classroom sizes in kindergarten through third grade in schools with many low income students.

Endnotes

1. Please note that the New Hampshire decision was rendered in December, 1993, but is included due to its proximity to 1994.
2. For an analysis of the Arizona decision, see Faith E. Crampton and Terry N. Whitney, "Equity and Funding of Schools Facilities: Are States at Risk?" *State Legislative Report*, 20:1 (February 1995); see also, *Roosevelt Elementary vs. Bishop*, CV-93-0168-T/AP, supreme court of Arizona, July 21, 1994.
3. Note also that although the Ohio decision was much broader in scope, specific reference to disparities in facilities as a source of inequity was made in the decision. See *DeRolph vs. State of Ohio*, No. 22043. Common Pleas court, Perry County, Ohio, July 1994.
4. For a more indepth analysis of this time period, see "School Finance Equity Cases: Does Litigation Work?" *State Education Finance Communications* (April 1995), National Education Association.

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